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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,451	02/01/2002	Joachim Johansson	215239US2PCT	4699

22850 7590 10/21/2004

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ALEXANDRIA, VA 22314

EXAMINER
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WINDER, PATRICE L

ART UNIT	PAPER NUMBER
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2145

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/926,451

Applicant(s)

JOHANSSON ET AL.

Examiner

Patrice Winder

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 19-32 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for "requesting transmission of one more segment from the transmitting unit that has completed", does not reasonably provide enablement for "requesting transmission of one more segment from another transmitting unit wherein the another transmitting unit includes transmitting units that have not yet completed". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims.

3. First question, how broad is the claim? The scope of applicant's claims encompasses requesting one more segment from transmitting units that are currently transmitting segments.

4. Second question, can one of ordinary skill make and use the invention? From applicant's disclosure one of ordinary skill would not be able to use requesting one more segment from transmitting units that have not yet completed transmitting segments. Applicant's disclosure emphasizes that the "request one more segment" is made to completed transmitting units, see page 7, line 33 through page 8, line 15.

Art Unit: 2145

5. Claims 19-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. On page 7, lines 33 through page 8, line 15, written description is lacking for "requesting transmission of one more segment when the transmitting unit has not completed prior transmission". The first question raised is which transmitting unit the "another transmitting unit" encompasses. The answer is that another transmitting unit is any unit other than "the one of the plurality of transmitting units". Since only one transmitting unit has completed, the another transmitting unit can also be a transmitting unit that has not completed transmission of its segment, i.e. a busy transmitted unit. Leading to the second question of why request one more segment from a transmitting unit that is busy. Applicant's disclosure did not provide insight into answers to this question. In fact, applicant's disclosure seems to contradict having a busy transmitting unit receive a request for one more segment, see page 7, line 33 – page 8, line 15.

### ***Conclusion***

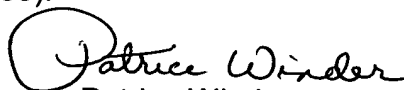
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Dunn et al., USPN 6,765,868 B1: taught forwarding agents obtain guaranteed bandwidth reservations from bandwidth managers for segments of a large file that are to be transmitted to a receiving station;
  - b. Saito et al., USPN 6,460,087 B1: taught ftp comprising the steps of: establishing multiple data connections, dividing a file into multiple segments and transferring segments through each of the multiple data connections;
  - c. Fabozzi, II, USPN 6,085,251: taught a system to improve the speed of electronic file transfer between remote computers by parallel FTP; parallel FTP segments files into discrete packets and simultaneously transmits these packets to the receiving computer; and
  - d. Freitas et al., USPN 6,003,045: taught a FTP methodology that includes calculating a priority ordering of source devices based on data transfer speed, dividing the data file into portions that can be deliver in parallel and delivering the data file in parallel with the faster devices delivering larger file portions.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 703-305-3938 until October 27, 2004 and 571-272-3935 thereafter. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 703-305-9705 until October 26, 2004 and 571-272-3896 thereafter. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2145

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Patrice Winder  
Primary Examiner  
Art Unit 2145

October 14, 2004